



Testimony to Michigan House Committee on Families, Children and Seniors  
HB 5763 and 5764

November 27, 2012

Good morning. My name is Jay Kaplan, and I am a staff attorney with the ACLU of Michigan. We urge this committee to reject HB 5763 and 5764 because if passed, they will result in state-sanctioned discrimination based on religious beliefs. Allowing religion to be used to discriminate against loving, qualified parents irretrievably harms vulnerable children awaiting placement in our state. When children are removed from their families by the state because of abuse and neglect, they have the right to have their foster or adoptive family chosen for them based on their needs, not the religious beliefs of the agencies. These bills allow the agencies' belief to trump the best interests of children awaiting placements with loving parents in our state.

The sweeping language of this bill would allow state-funded, state-contracted placement agencies to refuse a placement that violates the agency's religious or moral convictions or policies- terms which are as vague as they are broad. We live in a diverse society with diverse religious and moral beliefs. Under these bills, agencies could turn away qualified families for countless reasons that have no relevance to the needs of children or the family's ability to provide a safe, loving and permanent placement.

For example, a Jewish adoption agency could refuse to place a medically needy child into a Lutheran home of medical professionals. A loving aunt could be turned away from adopting her nephew, because she is divorced or single. An agency may believe that women should raise a child and, as a consequence, deny any placements to a male caregiver. The bills would accommodate agencies with religious or moral objections to placing children with parents of a different race than the child. They would allow agencies to refuse to place children in families in which parents use contraception. And they certainly would allow agencies to refuse to make placements in the homes of gay and lesbian families.

Religious freedom is not a license to deny vulnerable children loving parents because those parents do not conform to a particular aspect of theological doctrine. The Michigan Family Forum, in their 2011 report, cites statistics by the U.S. Department of Health and Human Services, ranking Michigan #5 in the nation for the number of children who are eligible for adoption, that remain in foster care. Allowing agencies that receive state dollars to disqualify qualified parents because of religious or moral convictions will have the most immoral of effects...it will leave children in foster care for longer periods of time, waiting to be adopted. I don't think you have to be a child welfare expert to know how devastating and scarring it is for a child to grow up without the security of having a family.

Legislation that endorses religious discrimination is not only wrong, it is an unconstitutional establishment of religion. When licensed placement agencies are

contracted by the State to find placements for children, they become government agents, paid for by Michigan tax payer dollars. Authorizing state agents to use religious criteria for placing these children, would amount to government funding of specific religious activity in violation of the Establishment Clause. Furthermore, these bills would exempt these agents from having to comply with Michigan Civil Rights laws that prohibit discrimination.

In the end, this is not about religious liberty. In instances where birth parents choose to work directly with an agency to have their child placed with a family of a particular faith, they have the right to do that. But when children are removed from their families by the State because of abuse or neglect, the State has a duty to place them in homes based on the childrens' needs, and the prospective family's capacity to meet those needs, not the religious or moral convictions of the agency it hires to find them families. These children have the right to have their placement decisions made based on their best interests, not religious criteria.

It is cruel to put the needs of agencies above the needs of the children they are hired to care for and protect. Our children deserve better.